

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-4974

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WARDELL RODNEY JONES,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Richard L. Williams, Senior District Judge. (CR-04-19)

Submitted: March 23, 2005

Decided: April 7, 2005

Before LUTTIG, MOTZ, and TRAXLER, Circuit Judges.

Affirmed in part; dismissed in part by unpublished per curiam opinion.

Robert Leonard Flax, Richmond, Virginia, for Appellant. Paul Joseph McNulty, United States Attorney, Alexandria, Virginia; Gurney Wingate Grant, II, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Wardell Rodney Jones seeks to appeal his conviction and sentence. The Government has moved to dismiss the appeal as untimely. In criminal cases, the defendant must file his notice of appeal within ten days of the entry of judgment. Fed. R. App. P. 4(b)(1)(A). With or without a motion, the district court may grant an extension of time to file of up to thirty days upon a showing of excusable neglect or good cause. Fed. R. App. P. 4(b)(4); United States v. Reyes, 759 F.2d 351, 353 (4th Cir. 1985).

The district court entered its judgment in May 2004; the notice of appeal was not filed until October 2004. Because Jones failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we grant the Government's motion and dismiss the appeal from Jones' conviction and sentence.

Further, Jones seeks to appeal the district court's order denying his motion for an extension of time to file a notice of appeal. Because the district court lacked jurisdiction to extend the appeal period, we affirm that order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED IN PART; DISMISSED IN PART